

1 HONORABLE RONALD B. LEIGHTON
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

9 GERMAN VAZQUEZ,

10 v. Petitioner,

11 STATE OF WASHINGTON,

12 Respondent.

CASE NO. C19-5724RBL

ORDER

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15 THIS MATTER is before the Court on limited remand by the Ninth Circuit to determine
16 whether this Court should issue a Certificate of Appealability to Petitioner Vasquez [Dkt. # 20].

17 The district court should grant an application for a Certificate of Appealability only if the
18 petitioner makes a “substantial showing of the denial of a constitutional right.” 28 U.S.C. §
19 2253(c)(3). To obtain a Certificate of Appealability under 28 U.S.C. § 2253(c), a habeas
20 petitioner must make a showing that reasonable jurists could debate whether, or agree that, the
21 petition should have been resolved in a different manner or that the issues presented were
22 adequate to deserve encouragement to proceed further. *Slack v. McDaniel*, 120 S.Ct. 1595,
23 1603-04 (2000) (*quoting Barefoot v. Estelle*, 463 U.S. 880, 893 n.4 (1983)).

1 When the court denies a claim on procedural grounds, the petitioner must show that
2 jurists of reason would find it debatable whether the petition states a valid claim of the denial of
3 a constitutional right and that jurists of reason would find it debatable whether the district court
4 was correct in its procedural ruling. *Slack v. McDaniel*, 120 S.Ct. at 1604.

5 Vasquez was ordered to show cause why his petition was not barred. He did not respond,
6 and he has not met his burden of demonstrating that reasonable jurists would find it debatable
7 whether the dismissal without prejudice for failure to prosecute was erroneous. Vasquez has not
8 made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(3).

9 The Court will not issue a Certificate of Appealability.

10 IT IS SO ORDERED.

11 Dated this 25th day of August, 2020.

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13 Ronald B. Leighton

14 Ronald B. Leighton
United States District Judge